THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 11686 OF 1997

DATE: 12.4.2007

Between:

The Depot Manager,
APSRTC, Dilsukhnagar Depot,
Hyderabad .....4 Petitioner

And

1. C.S.Rao and another .... Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 11686 OF 1997

ORDER:

Aggrieved by the award of the Labour Court-I, Hyderabad, in I.D.478 of 1993 dated 21.6.1996, the Depot Manager, APSRTC, Dilsuknagar, Hyderabad, is before this Court.

The 1st respondent was appointed as a conductor in APSRTC on 2.12.1986. He was removed from service on 18.8.1992. The charge levelled against the 1st respondent was that, while he was conducting the bus on 20.4.1992 on route 95-P and when the bus was proceeding from Agricultural College towards Dilsuknagar, a check was exercised by checking officials near Maternity Hospital, Nayapul and he was found to be involved in ticket irregularities. Subsequent thereto, a charge memo was issued to the petitioner wherein he was charged of having collected Rs.6/- from a batch of seven passengers at the boarding point itself and to have issued only five tickets of 0-85 n.p. instead of 7 tickets to the passengers who boarded the bus at Puranapul and were found alighting at Afzalganj.

An enquiry was held and, on the 1st respondent being held guilty of the charge, he was imposed the punishment of removal from service, vide proceedings dated 18.8.1992. Aggrieved thereby, the petitioner approached the Labour Court. The Labour Court, by order dated 9.1.1996, upheld the validity of the domestic enquiry and on a detailed analysis of the evidence on record held the charge levelled against the 1st respondent as proved. On the quantum of punishment the Labour Court held that the management had not placed any record to show that the 1st respondent had earlier suffered any punishment, that the charge

was that the 1st respondent did not issue tickets to two passengers of Rs.0.85 denomination nor did he return the balance amount to the passengers and that the amount involved was Rs.1.70 ps. Having regard to the fact that the petitioner had put in 7 years of service by the date of the incident, the Labour Court held that ends of justice would be met, if the order of removal was set aside and the petitioner herein was directed to pay only 25% of back wages with continuity of service and other attendant benefits.

It is necessary to note that the petitioner was removed from service, vide order dated 18.8.1992, and was directed to be reinstated by the Labour Court by order dated 21.6.1996. As a result of the award of the Labour Court, the 1st respondent has been denied 75% of the back wages for a period of nearly four years i.e., salary and wages for a period of around three years as a measure of punishment. The punishment of denial of back wages for a period of approximately three years for failure to issue tickets to two passengers for a total amount of Rs.1.70 ps (0.85 ps. X 2) cannot be said to be a punishment which shocks the conscience of this Court. Section 11-A of the Industrial Disputes Act confers power on the Industrial Tribunals/Labour Courts to re-appreciate the evidence on record and, even in cases where the charges are held to be established, to also examine whether the punishment imposed is proportionate to the misconduct held established. In this case the Labour Court, in exercise of its jurisdiction under Section 11-A, has chosen to deny the 1st respondent 75% of his back wages i.e., wages for a period of

approximately three years for the charge held established of not having issued tickets to two passengers of Rs.0-85 ps. each i.e., for a total sum of Rs.1.70 ps. The award of the Labour Court, substituting the punishment imposed by the employer of removal from service to that of denial of 75% of back wages, cannot be said to be a punishment which cannot be imposed at all or a punishment which shocks the conscience of the Court. It is necessary to note that this Court, in proceedings under Article 226 of the Constitution of India, does not sit in appeal over the discretion exercised by the Labour Court on the quantum of punishment. While Industrial Tribunals/Labour Courts should be slow to interfere with the punishment imposed by the employer, and should not modify the punishment as matter of course or on misplaced sympathy, the discretion conferred on the Labour Court under Section 11-A of the Industrial Disputes Act ought not, ordinarily, to be interfered with in proceedings under Article 226 of the Constitution of India except in cases where the punishment imposed is such as to shock the conscience of this Court or is a punishment which could not have been imposed under the Regulations in force.

The award of the Labour Court, in I.D.478 of 1993 dated 21.6.1996, does not necessitate interference at the behest of the petitioner – employer. The writ petition fails and is accordingly dismissed. However, in the circumstances, without costs.

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12-4-2007

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